

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

MAURICE J. BECTON,

Petitioner,

v.

Civil Action No. **3:15CV512**

WARDEN ZOOK,

Respondent.

MEMORANDUM OPINION

Maurice James Becton, a Virginia state prisoner proceeding *pro se*, brings this petition pursuant to 28 U.S.C. § 2254 (“§ 2254 Petition,” ECF No. 1), challenging his convictions of five counts of grand larceny and five counts of breaking and entering while armed. On July 26, 2016, the Magistrate Judge recommended that the Motion to Dismiss be granted and the § 2254 Petition be denied. (ECF No. 16.) The Court advised Becton that he could file objections within fourteen (14) days after the entry of the Report and Recommendation. Becton has not responded.

“The magistrate makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with this court.” *Estrada v. Witkowski*, 816 F. Supp. 408, 410 (D.S.C. 1993) (citing *Mathews v. Weber*, 423 U.S. 261, 270–71 (1976)). This Court “shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” 28 U.S.C. § 636(b)(1). “The filing of objections to a magistrate’s report enables the district judge to focus attention on those issues—factual and legal—that are at the heart of the parties’ dispute.” *Thomas v. Arn*, 474 U.S. 140, 147 (1985). In the absence of a specific written objection, this

Court may adopt a magistrate judge's recommendation without conducting a de novo review.

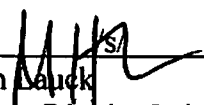
See Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 316 (4th Cir. 2005).

There being no objections, the Report and Recommendation will be ACCEPTED and ADOPTED. The Motion to Dismiss (ECF No. 8) will be GRANTED. The § 2254 Petition (ECF No. 1) will be DENIED. Becton's claim and the action will be DISMISSED.

An appeal may not be taken from the final order in a § 2254 proceeding unless a judge issues a certificate of appealability ("COA"). 28 U.S.C. § 2253(c)(1)(A). A COA will not issue unless a prisoner makes "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). A petitioner satisfies this requirement only when "reasonable jurists could debate whether (or, for that matter, agree that) the petition should have been resolved in a different manner or that the issues presented were 'adequate to deserve encouragement to proceed further.'" *Slack v. McDaniel*, 529 U.S. 473, 484 (2000) (quoting *Barefoot v. Estelle*, 463 U.S. 880, 893 n.4 (1983)). Becton fails to meet this standard. A certificate of appealability will therefore be DENIED.

An appropriate Order will accompany this Memorandum Opinion.

Date: **AUG 15 2016**
Richmond, Virginia



M. Hannah Dauck
United States District Judge